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SPECIAL EDITION

NEW LAWS AFFECTING VARIOUS COUNTY OFFICES

The following is a digest of some of the laws passed by the 2000 Second Regular Session of the General Assembly affecting various offices in county government. Some of the laws do not pertain directly to a particular county office, but are included in this digest for ready reference to the covered subject matter.

The digest is not intended as an expression of legal interpretations, nor is the digest intended to be all inclusive. Reference in the digest will be to the Indiana Code in the following form (Amends IC 33-17-10-5) which means (Amends Indiana Code, Title 33, Article 17, Chapter 10, Section 5). Please note the effective date of each law.

PUBLIC LAW 4 - SENATE ENROLLED ACT 14 - EFFECTIVE DECEMBER 30, 1999 AND JULY 1, 2000 - TAX ABATEMENT

Amends IC 6-1.1-12.1-1, IC 6-1.1-12.1-2, IC 6-1.1-12.1-2.5, IC 6-1.1-12.1-3, IC 6-1.1-12.1-4, IC 6-1.1-12.1-4.5, IC 6-1.1-12.1-5, IC 6-1.1-12.1-5.5, IC 6-1.1-12.1-5.6, IC 6-1.1-12.1-5.8, IC 6-1.1-12.1-8, and IC 6-1.1-12.1-11.3 to provide that certain research and development equipment is eligible for property tax abatement deductions. Provides that property tax abatement deductions may be granted for any number of years less than or equal to ten years. Currently, the abatement deduction is limited to three, six, or ten years for real property and five or ten years for personal property.

Amends IC 6-3.1-4-6 to state that the research expense credit against gross income taxes, adjusted gross income taxes, and supplemental corporate net income taxes expires December 31, 2002 instead of December 31, 1999.

PUBLIC LAW 8 - SENATE ENROLLED ACT 216 - EFFECTIVE UPON PASSAGE - ALLEN COUNTY FOOD AND BEVERAGE TAX

Amends IC 6-9-23-3 to state that the Allen County Food and Beverage Tax will terminate June 30, 2000 unless there is a legal challenge or the time for legal challenges has not expired.

Adds IC 6-9-33 to provide a new Allen County Supplemental Food and Beverage Tax if the county fiscal body adopts an ordinance after January 1 and before June 30. The tax would be imposed on transactions after June 30 of the year the ordinance is adopted and may not exceed 1 % of the gross retail income.

PUBLIC LAW 14 - SENATE ENROLLED ACT 12 - EFFECTIVE VARIOUS DATES - TECHNICAL CORRECTIONS

Amends several Articles of Title 3 on election procedures.

Amends IC 6-9-32-3 and IC 6-9-32-4, Jackson County Innkeeper's Tax, to remove rooms and accommodations in college or university memorial unions and college or university residence halls or dormitories from the list of rentals that may be taxed. Also removes the exemption from Innkeeper's Tax for students that rent lodgings in a college or university residence hall while participating in a course of study for which the student receives college credit.

PUBLIC LAW 17 - HOUSE ENROLLED ACT 1157 - EFFECTIVE JULY 1, 2000 - RIVERBOAT GAMING REVENUE

Adds IC 20-5-6-9 which allows a political subdivision to donate proceeds from riverboat gaming to a public school endowment corporation with certain conditions. Also, legalizes and validates donations made prior to July 1, 2000 that would have been permitted under this new statute had it been in effect.

Amends IC 36-1-14-1 to allow counties under certain conditions to donate riverboat gaming revenue to a charitable nonprofit community foundation.

PUBLIC LAW 19 - HOUSE ENROLLED ACT 1166 - EFFECTIVE JULY 1, 2000 AND JANUARY 1, 2001 - MARION COUNTY HOUSING TRUST FUND

Adds IC 6-1.1-10-16.7, effective January 1, 2001, to exempt real property in Marion county that provides low income housing from property taxation if certain conditions are met including that the owner of the property has entered into an agreement to make payments in lieu of taxes.

Adds IC 36-3-2-11 and IC 36-7-15.1-35.5, effective July 1, 2000, which create the low income housing trust fund advisory committee and the low income housing trust fund where the payments in lieu of taxes are to be deposited.

PUBLIC LAW 21 - SENATE ENROLLED ACT 108 - EFFECTIVE JULY 1, 2001 - INDIANA LOCAL HEALTH DEPARTMENT TRUST FUND

Adds IC 4-12-7 to establish the Indiana Local Health Department Trust Fund as part of the Indiana tobacco master settlement. The trust fund is for the purpose of making distributions to each county to provide services by the local boards of health in that county. Subject to review by the budget committee and approval of the State Budget Agency, distributions are to be made each July 1 to each county. If only one local board of health exists in a county the county council shall appropriate all distributions received to that local board of health. If more than one local board of health exists in the county, the county fiscal body shall appropriate all distributions received by the county under this chapter to those local boards of health in amounts determined by the county fiscal body.

PUBLIC LAW 22 - HOUSE ENROLLED ACT 1180 - EFFECTIVE JULY 1, 2000 - DISPLAYS ON PUBLIC PROPERTY

Adds IC 36-1-16 to authorize the display of an object containing the words of the Ten Commandments on real property owned by a political subdivision along with other documents of historical significance that have formed and influenced the United States legal or governmental system.

PUBLIC LAW 26 - HOUSE ENROLLED ACT 1024 - EFFECTIVE VARIOUS DATES - MISCELLANEOUS ELECTION LAW CHANGES

Amends IC 1-1-9-1, effective upon passage, to provide that an action taken by the state or a political subdivision on a state legal holiday is valid.

Changes various laws regarding election division meetings, campaign finance, optical scan ballot card systems, pretest and public test of election equipment, caucuses for filling vacancies, oaths, and resignation procedures.

Adds IC 36-1-8-10.5, effective upon passage, to allow an employee of a political subdivision to be a candidate for any elected office or be appointed to any office and serve in that office if elected or appointed without having to resign as an employee of the political subdivision. This section does not apply to officers that are elected or appointed.

PUBLIC LAW 33 - HOUSE ENROLLED ACT 1055 - EFFECTIVE JULY 1, 2000 - MILITARY RESERVE EMPLOYMENT MATTERS

Amends IC 10-2-4-3 to provide that the leave of absence that a public employer is required to grant a public employee who is called into training duties under the order of the governor or as a member of any reserve component under the order of the reserve component authority, that lasts for consecutive or nonconsecutive periods not to exceed a total of 15 days in any calendar year, is to be without loss of time or pay for the public employee.

Also provides that the leave of absence that a public employer is required to grant a public employee who is called into state active duty is without loss of time or pay for the public employee at the discretion of the public employer.

PUBLIC LAW 35 - HOUSE ENROLLED ACT 1062 - EFFECTIVE JULY 1, 2000 - LOCAL FUNDING FOR VETERANS MEMORIALS

Adds IC 10-7-13-2 to allow counties to annually appropriate a sum of money to be allocated to a nonprofit veterans organization for the development, establishment, or maintenance of a veterans memorial located within the county.

PUBLIC LAW 45 - HOUSE ENROLLED ACT 1182 - EFFECTIVE JULY 1, 2000 - COURT CONVERSIONS

Adds, amends, or repeals several sections of IC 33-5 and IC 33-10.5-44.1-27 to converts the following county courts to superior courts; Blackford county court, Dearborn county court, Orange county court, and Rush county court. Adds two superior courts and eliminates two county courts in Vigo County.

PUBLIC LAW 46 - HOUSE ENROLLED ACT 1184 - EFFECTIVE JULY 1, 2000 - PROPERTY CONTAINING A CEMETERY OR BURIAL GROUND

Adds IC 14-21-3 to state that before a person may record any interest in property on which a burial ground or cemetery is known to be located, the owner of the property must record the deed to the property in the recorder's office of the county where the property is located. The bottom portion of the deed must state in capital letters in bold type that the deed pertains to property on which a burial ground or cemetery is known to be located. The only exceptions to this are for a public utility, a rural electric membership corporation, a municipally owned utility, and property that has been subject to bonding or other financial assurances released by the appropriate governmental agency after compliance with applicable state laws.

PUBLIC LAW 46 - HOUSE ENROLLED ACT 1184 - EFFECTIVE JULY 1, 2000 - PROPERTY CONTAINING A CEMETERY OR BURIAL GROUND - (Continued)

The county auditor shall send a copy of the deed to the Department of Natural Resources and the local cemetery board. If there is no local cemetery board, the second copy goes to the Board of County Commissioners. These copies are to be sent no later than 30 days after the deed is recorded.

PUBLIC LAW 57 - HOUSE ENROLLED ACT 1326 - EFFECTIVE JULY 1, 2001 - UNIFORM COMMERCIAL CODE

Amends and Adds various sections of the Indiana Code regarding secured transactions including the addition of IC 26-1-1.5 which includes the forms for filing a UCC financing statement and UCC financing statement amendment under the new statute.

Adds IC 26-1-9.1 which adopts Article 9 of the Uniform Commercial Code. IC 26-1-9.1-501 provides that after June 30, 2002, filing of UCC financing statements for interests in property other than as-extracted collateral or timber to be cut or fixtures are to be filed in the office of the secretary of state. Additional provisions are made in this statute for amendments and terminations after June 30, 2001.

IC 26-1-9.1-525 provides for the appropriate filing fees under the statute once effective.

PUBLIC LAW 62 - HOUSE ENROLLED ACT 1395 - EFFECTIVE JULY 1, 2000 - UNIFORM ELECTRONIC TRANSACTIONS ACT

Adds IC 26-2-8 to state that each governmental agency shall determine whether, and the extent to which, the governmental agency will create and retain electronic records and convert written records to electronic records.

Each governmental agency shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

To the extent that a governmental agency uses electronic records and electronic signatures the governmental agency, giving due consideration to security, may specify:

1. the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for such purposes;
2. if electronic records must be electronically signed, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;
3. control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and audit ability of electronic records; and
4. any other required attributes for electronic records that are specified for corresponding nonelectronic records or electronic signatures. Standards adopted by a governmental agency must encourage and promote consistency and interoperability with similar requirements adopted by:
 - A. other governmental agencies;
 - B. other states;
 - C. the federal government; and
 - D. nongovernmental persons interacting with governmental agencies.

PUBLIC LAW 62 - HOUSE ENROLLED ACT 1395 - EFFECTIVE JULY 1, 2000 - UNIFORM ELECTRONIC TRANSACTIONS ACT- (Continued)

If appropriate, those standards must specify differing levels of standards from which governmental agencies may choose in implementing the most appropriate standard for a particular application.

PUBLIC LAW 80 - SENATE ENROLLED ACT 222 - EFFECTIVE JULY 1, 2000 - JAIL COMMISSARY FUNDS AND INMATE TRUST FUNDS

Amends IC 36-8-10-21 to make it applicable to all counties that have a jail commissary. Current law only applies to counties with populations greater than 50,000. Gives the sheriff authority to disburse money from the commissary fund for:

1. merchandise for resale to inmates
2. expenses of operating the commissary
3. special training in law enforcement for employees of the department
4. equipment installed in the county jail
5. equipment including vehicles and computers, computer software, communication devices, office machinery and furnishings, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of official duties.
6. activities provided to maintain order and discipline among inmates at the jail
7. activities or programs of the sheriff's department intended to reduce or prevent occurrences of criminal activity, and
8. any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.

Additionally, the sheriff is to provide a copy of the record of receipts and disbursements to the county council semiannually on July 1 and December 31 of each year.

Amends IC 36-8-10-22 to make this statute, regarding inmate trust funds, applicable to all counties that operate a county jail instead of only those with a populations greater than 50,000.

PUBLIC LAW 90 - SENATE ENROLLED ACT 433 - EFFECTIVE UPON PASSAGE - COMMUNITY TRANSITION PROGRAMS

Amends IC 11-10-11.5-12 to provide that any earnings of a person employed while in a community transition program, less payroll deductions required by law and court ordered deductions for satisfaction of a judgement against that person, may be collected by the community transition program. Current law states that the community transition program shall collect these earnings. If the community transition program chooses to collect the earnings, they shall be distributed as previously provided in this statute unless ordered by the sentencing court.

Adds IC 11-10-11.5-14 to state that the person assigned to a community transition program is responsible for the person's medical care while in the program. If the sentencing court finds that the person is unable to pay for necessary medical care, the department of correction shall provide for the necessary medical care.

PUBLIC LAW 98 - HOUSE ENROLLED ACT 1008 - EFFECTIVE VARIOUS DATES - LOCAL GOVERNMENT MATTERSTravel to State Board of Accounts Called Meetings

Amends IC 5-11-14-1, effective (Retroactive) January 1, 2000, to allow each official to be reimbursed, in an amount determined by the fiscal body, for meals purchased while attending a conference called by the State Board of Accounts. This amount is to be paid from unappropriated county general funds. Mileage and lodging will still be reimbursed in the same manner as under current law.

PUBLIC LAW 98 - HOUSE ENROLLED ACT 1008 - EFFECTIVE VARIOUS DATES - LOCAL GOVERNMENT MATTERS - (Continued)Tax Sale Purchasers

Adds IC 6-1.1-24-5.3, effective July 1, 2000, to state that a person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property listed on the tax sale or an agent of this person may not purchase a tract offered in the tax sale.

If a person who is not eligible, purchases a tract, the sale is void. The county treasurer shall apply the amount of the person's bid to the person's delinquent taxes and offer the real property for sale again.

Inheritance Tax Refunds

Amends IC 6-4.1-10-3, effective July 1, 2000, to provide that the department of revenue shall review each claim for refund and shall enter an order either approving, partially approving, or disapproving the refund. If the department approves or partially approves a claim, the department will send a copy of the order to the county treasurer and to the treasurer of state. The treasurer of state shall pay the refund and receive a credit for the county portion of the amount refunded. The county treasurer of the county owing the credit shall account for the credit on the county's inheritance tax report for the quarter in which the refund is paid.

Boundary Roads

Amends IC 8-17-1-45, effective July 1, 2000, to provide that each county is responsible for the construction, reconstruction, maintenance, and operation of roads, including ditches and signs for those roads making up its southern and eastern boundaries.

Recording Acknowledgments

Amends IC 32-1-2-18, effective July 1, 2000, to provide that a clerk of the city-county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city, clerk-treasurer for a town, a member of the general assembly, the principal clerk for the house of representatives, and the secretary of the senate may acknowledge a document for recording in addition to the persons listed under the current law. A justice of the peace will no longer be able to acknowledge a document for recording.

Clerk's Liability

Amends IC 33-17-1-4, effective July 1, 2000, to add that the clerk is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if the check was for the payment of a fee, court ordered payment, or license and the acceptance of the check was not an act of gross negligence or an intentional disregard of the responsibilities of the office.

City and Town Share of Court Costs

Amends IC 33-19-7-3, effective July 1, 2000, to provide that the qualified municipality share is to be distributed to each city or town maintaining a law enforcement agency that prosecutes at least fifty percent of its ordinance violations in a circuit, superior, or county court located in the county. Municipal court is no longer included on the list.

PUBLIC LAW 98 - HOUSE ENROLLED ACT 1008 - EFFECTIVE VARIOUS DATES - LOCAL GOVERNMENT MATTERS - (Continued)Dishonored Checks

Adds IC 36-1-8-13, effective July 1, 2000, to provide that a unit that is unable to obtain payment of a dishonored check shall not later than 90 days after the check is initially received by the unit, refer the matter to the prosecuting attorney for the county where the dishonored check was received for prosecution.

Commissioners' Sale

Amends IC 36-1-11-16, effective July 1, 2000, to prohibit a person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property from purchase, receipt, or lease of a tract that is offered for sale, exchange, or lease by the county commissioners.

County Treasurers' Liability

Adds IC 36-2-10-24, effective July 1, 2000, to state that a county treasurer is not personally liable for any act or omission occurring in connection with the performance of the county treasurer's official duties unless the act or omission constitutes gross negligence or an intentional disregard of the responsibilities of the office of the county treasurer.

County Recorders' Liability

Adds IC 36-2-11-7.5, effective July 1, 2000, to provide that a county recorder is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if the check was for the payment of a fee and the acceptance of the check was not an act constituting gross negligence or intentional disregard of the responsibilities of the office.

Sewer Liens

Amends IC 36-9-23-33, effective July 1, 2000, to allow the municipal officer to prepare a list of delinquent fees and penalties as often as the officer determines is necessary in a calendar year. Under current law the list is not to be prepared for recording more than 4 times in any calendar year.

Mortgage Deduction Application Fee

Repeals IC 6-1.1-12-8, effective July 1, 2000, to remove the \$1 fee for filing for a mortgage deduction.

PUBLIC LAW 101 - HOUSE ENROLLED ACT 1202 - EFFECTIVE JANUARY 1, 2001 - POOR RELIEF FUNDS

Amends IC 12-20-20-1, to provide for all township trustees to pay claims against the township for poor relief. Current law states the county auditor will pay these claims for townships which have populations of less than 20,000.

Amends IC 12-20-20-2 to provide that if money is not available to pay poor relief claims the county commissioners may borrow money or otherwise provide the money. They will no longer have to provide the money. For a county having a consolidated city the board of commissioners shall borrow money or otherwise provide the money.

Repeals IC 12-20-20-3, IC 12-20-22-4, and IC 12-20-21-1. For each township contained in a particular county, the county auditor shall determine the amount, if any, of the unencumbered balance held by the county in the township's poor relief account as of January 1, 2001. The county shall transfer the amount determined for each township to the respective township not later than January 10, 2001.

PUBLIC LAW 103 - HOUSE ENROLLED ACT 1221 - EFFECTIVE UPON PASSAGE - COUNTY PLAN COMMISSION

Amends IC 36-7-4-208 to allow the county commissioners to appoint 5 citizen members to the county plan commission instead of 4 citizen members and 1 township trustee. Of the 5 citizen members, not more than 3 may be of the same political party and all five must be residents of unincorporated areas of the county. Each member appointed to the commission is entitled to receive compensation for mileage and for services at the same rate as a member of a county executive, a member of the county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission. Legalizes the acts of a county plan commission that did not have a township trustee appointed to its membership on October 1, 1999.

PUBLIC LAW 114 - HOUSE ENROLLED ACT 1354 - EFFECTIVE UPON PASSAGE - ECONOMIC DEVELOPMENT FOR A GROWING ECONOMY (EDGE) TAX CREDIT

Adds IC 6-3.1-13-27 to allow the EDGE board, in Hamilton County, to award a tax credit to a nonprofit organization that is a high growth company with high skilled jobs if the nonprofit is a taxpayer and meets all of the requirements within this chapter.

PUBLIC LAW 124 - SENATE ENROLLED ACT 143 - EFFECTIVE JULY 1, 2000 - DELAWARE COUNTY UNIFIED COURT

Amends IC 33-4-1-18 and adds IC 33-4-12 to establish a unified court for Delaware County by combining the circuit court and the 4 superior courts into a unified court with 5 judges.

Repeals IC 33-5-12.1 and specifies that a judge serving the Delaware superior court on June 30, 2000 is entitled to serve as a judge of the Delaware circuit court created by IC 33-4-12 for a term beginning July 1, 2000. The judge may serve the Delaware circuit court until expiration of the Delaware superior court term that the judge was serving June 30, 2000.

PUBLIC LAW 127 - SENATE ENROLLED ACT 227 - EFFECTIVE JULY 1, 2000 - UNCLAIMED PROPERTY AND UNPAID CHECKS

Adds IC 4-10-10-11 and IC 5-11-10.5-7. Amends IC 32-9-1.5 to state that for warrants or checks drawn by the Auditor of State or from public funds of a political subdivision, if the check or warrant is outstanding and unpaid, an agreement to locate and recover the warrant or check is valid only if:

1. the fee or compensation agreed upon is not more than 10% of the amount collected unless the amount collected \$50 or less;
2. the agreement is in writing;
3. the agreement is signed by the apparent owner; and
4. the agreement clearly sets forth:
 - A. the nature and value of the property; and
 - B. the value of the apparent owner's share after the fee or compensation has been deducted.

Amends IC 32-9-1.5-20 to provide that beginning January 1, 2002, all unclaimed trust funds held by the Clerk of the Circuit Court must be treated as unclaimed property after 5 years with the exception of child support funds which will not become unclaimed property until 10 years have passed from the time the funds were eligible for distribution.

PUBLIC LAW 134 - SENATE ENROLLED ACT 351 - EFFECTIVE JULY 1, 2000 - REPURCHASE AGREEMENTS

Amends IC 5-13-9-3 to eliminate references to sweep accounts in the language on investment of public funds.